

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

JOHN W. MUNN,)	
)	
Petitioner,)	
)	
vs.)	NO. CIV-07-1442-D
)	
)	
UNITED STATES PAROLE COMMISSION,)	
<i>et al.</i> ,)	
)	
Respondents.)	

ORDER

Petitioner, a federal prisoner appearing *pro se*, brought this action for a writ of habeas corpus pursuant to 28 U.S.C. §2241. In the petition, he seeks his immediate release from federal custody. In accordance with 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Valerie K. Couch for initial proceedings.

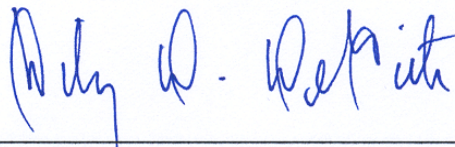
In response to the petition, Respondents filed a motion to dismiss the action, to which Petitioner responded. On May 29, 2008, the Magistrate Judge filed a Report and Recommendation [Doc. No. 19] in which she recommended that the motion to dismiss be granted and that the action be dismissed as a successive petition, pursuant to 28 U. S. C. § 2244(a). In the alternative, she recommended that the Motion to Dismiss be construed as an Answer and that the Petition be denied. Petitioner also filed a Motion for Summary Judgment; the Magistrate Judge recommended that his motion be denied.

In the Report and Recommendation, the Magistrate Judge advised Petitioner of his right to object to the same and scheduled a June 18, 2008 deadline for filing objections. The Magistrate

Judge also advised Petitioner that a failure to timely object would constitute a waiver of his right to appellate review of the factual findings and legal conclusions contained in the Report and Recommendation.

The deadline for filing objections has expired; Petitioner has not filed an objection and has not sought an extension of time in which to do so. Accordingly, the Report and Recommendation [Doc. No. 19] is adopted, and this action is dismissed with prejudice as successive or abusive, pursuant to 28 U. S. C. § 2244(a)¹.

IT IS SO ORDERED this 27th day of June, 2008.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

¹As the Magistrate Judge discussed in detail, the Tenth Circuit Court of Appeals has not applied the prior court of appeals authorization requirements of 28 U. S. C. § 2244(b)(3)(A) to successive habeas petitions filed by federal prisoners pursuant to 28 U. S. C. § 2241; instead, it has limited the requirements of § 2244(b)(3)(A) to state prisoners seeking § 2254 habeas relief and federal prisoners seeking § 2255 relief. See, e.g., *McIntosh v. U.S. Parole Comm'n*, 115 F.3d 809, 811 (10th Cir. 1997). In a number of unpublished decisions cited and discussed at pages 8-11 of the Report and Recommendation, the Tenth Circuit has affirmed district court dismissals of § 2241 habeas actions brought by federal prisoners on grounds that the petitions were second or successive, and it has rejected a requirement that prior circuit authorization is required in such cases. See, e.g., *Tuggle v. Addison*, 247 Fed. Appx. 155, 157 (10th Cir. Sept. 7, 2007). Accordingly, the Court agrees with the Magistrate Judge that this action need not be transferred to the Tenth Circuit for authorization in accordance with 28 U. S. C. § 2244(b)(3)(A), and should be dismissed.

